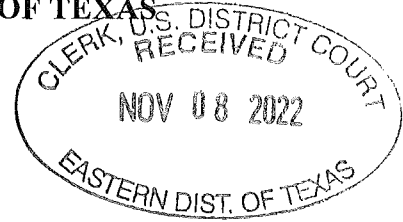


PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 07/2021)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
Tyler DIVISION**



Donald Ray Johnson Jr. 1596526  
Plaintiff's Name and ID Number

Mack. H. Michael  
Place of Confinement

CASE NO. 6:22cv434 JCB/JDL  
(Clerk will assign the number)

v. Juan Garcia, Coffield Unit 2661 Am 2054, Tenn Colony TX 75884

John R. Delapp Jr., Coffield Unit 2661 Am 2054, Tenn Colony TX 75884

Defendant's Name and Address

Michael D. McNeil, Coffield Unit, 2661 Am 2054, Tenn. Colony, TX 75884

Brandon Brewer, Coffield Unit, 2661 Am 2054 Tenn Colony, TX 75884

Defendant's Name and Address

Logan Elkins, Coffield Unit, 2661 Am 2054, Tenn. Colony, TX 75884

Luis Medina, Coffield Unit, 2661 Am 2054, Tenn. Colony, TX 75884

Defendant's Name and Address

(DO NOT USE "ET AL.")

Each Defendant is sued individually and in his official capacity. At all times mentioned in this complaint each defendant acted under the color of state law.

**INSTRUCTIONS - READ CAREFULLY**

**NOTICE:**

**Your complaint is subject to dismissal unless it conforms to these instructions and this form.**

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

**FILING FEE AND IN FORMA PAUPERIS (IFP)**

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$52.00 for a total fee of **\$402.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$52.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

**CHANGE OF ADDRESS**

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

**I. PREVIOUS LAWSUITS:**

A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? ☒ YES ☐ NO

B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: 5-19-2009
2. Parties to previous lawsuit:  
Plaintiff(s) Donald Ray Johnson Jr.  
Defendant(s) Benn Webb
3. Court: (If federal, name the district; if state, name the county.) U.S. Dist. Court Northern Dist. of TX, Lubbock
4. Cause number: 5:09-cv-00110-C
5. Name of judge to whom case was assigned: Sam Cummings
6. Disposition: (Was the case dismissed, appealed, still pending?) dismissed/failure to state claim
7. Approximate date of disposition: 5-20-2009

- II. PLACE OF PRESENT CONFINEMENT: Mark W. Michael
- III. EXHAUSTION OF GRIEVANCE PROCEDURES: Please see attachment  
 Have you exhausted all steps of the institutional grievance procedure? ☒ YES ☐ NO  
 Attach a copy of your final step of the grievance procedure with the response supplied by the institution.
- IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: Donald Ray Johnson Jr.  
Mark W. Michael Unit, 2664 Fm 2054, Tennessee Colony TX. 75886

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Juan Garcia, Warden II, Coffield Unit, 2661 Fm 2054, Tennessee Colony TX. 75884

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant is warden at Coffield who is responsible for all operations. His lack of supervision led to my injuries

Defendant #2: John R. Delapp, Warden (Asst.), Coffield Unit, 2661 Fm 2054, Tenn. Colony TX 75884

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Asst. Warden of Coffield. Lack of proper supervision and lack of training, caused injuries cruel and unusual punishment

Defendant #3: Michael D. McNeil, Was Major at the time, now Warden. Current location is unknown will have to amend once able to obtain current address.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Major of Corrections, head of security, did give the instructions for officers to execute illegal approved use of unnecessary force

Defendant #4: Brandon Brewer, Sergeant of Corrections, Coffield Unit, 2661 Fm 2054, Tenn. Colony TX 75884

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

By first witnessing defendants Elkins and Medina's illegal actions failing to correct that misconduct, and encouraging this misconduct, defendant Brewer also violates rights under 8th Amendment

Defendant #5: Logan Elkins, Correctional Officer 5, Coffield Unit, 2661 Fm 2054, Tenn. Colony TX. 75884

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant Elkins used excessive and deadly force by punching or pounding w/ closed fist in the trachea when Johnson was not violating any directives or acting disruptively. Defendant Elkins actions violate plaintiff Johnson's rights under the 8th Amendment, causing pain suffering, physical injury and emotional stress.

SEE ATTACHMENT FOR 6th Defendant Luis Medina

Attachment:

OTHER OFFICER INVOLVED

DEFENDANT #6

Luis Medina, Correctional Officer 4, Coffield Unit

2661 Fm 2054, Tennessee Colony, Tx. 75884

Officer Medina did attempt to gouge out my eye organs by using his fingers. He also choked me causing, pain, suffering, physical injury, mental anguish and emotional stress.

## V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

*On 6/16/22 CO5 Elkins and CO4 Medina entered my cell T-415-B while I slept and did assault and batter me by attempting to gouge out my eye organs and collapse my trachea by pounding on it with closed fists. Actions that violate my rights under the 8th Amendment which has caused me pain, suffering, physical injury, mental anguish, and emotional stress. Sergeant Brewer witnessed misconduct and failed to correct it, and instead encouraged the continuation of misconduct before engaging in it himself by over extending my ring and middle finger causing pain, suffering, physical injury, mental anguish, and emotional stress, a violation of my 8th Amendment right. McNeil, then major of security did give instruction for inferior officers to carry out "force" which resulted in injuries that caused pain, suffering, physical injury, mental anguish and emotional stress. Jean Garcia and John Delapp knew of assault/battery and did not correct it.*

## VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

*Plaintiff seeks jury trial on all triable issues. Plaintiff seeks compensatory damages of \$75,000 against each defendant jointly and severally. Punitive damages of \$50,000 against each defendant jointly and severally. Plaintiff's costs in this suit, and any additional relief this court deems just, proper and equitable.*

## VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

*Donald Ray Johnson Jr., Donald Ray, Jay, Jay R, Junior, Face*

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

*05793801, 938028, 319762 FBO, 1596526*

## VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES ☒ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): N/A

2. Case number: N/A

3. Approximate date sanctions were imposed: N/A

4. Have the sanctions been lifted or otherwise satisfied? N/A YES NO



- C. Has any court ever warned or notified you that sanctions could be imposed? \_\_\_\_\_ YES ☒ NO
- D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)
1. Court that issued warning (if federal, give the district and division): N/A
  2. Case number: N/A
  3. Approximate date warning was issued: N/A

Executed on: 10-25-22  
DATE

Donald Ray Johnson Jr.  
Donald Johnson Jr.  
(Signature of Plaintiff)

### PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 25<sup>th</sup> day of October, 20 22.  
(Day) (month) (year)

Donald Ray Johnson Jr.  
Donald Johnson Jr.  
(Signature of Plaintiff)

**WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.**